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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/643,415

08/20/2003

Byron Wesley Harris

3433

7590

02/18/2005

David Landman

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Las Vegas, NV 89128

EXAMINER

PAIK, STEVE S

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,415

Applicant(s)

HARRIS, BYRON WESLEY 

Examiner

Steven S. Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-10, 12-14, 16, 17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-10, 12-14, 16, 17 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 6, 2004 has been entered.

Allowable Subject Matter

2. The indicated allowability of claims 11 and 20 is withdrawn in view of the newly discovered reference(s) to Levy, Jr. (US 6,305,329). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-10, 13, 14, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricks (US 4,759,139) in view of Levy, Jr. (US 6,305,329).

Re claims 6-10, 13, 14, 16, and 22, Ricks discloses an identification device (collar 10) and a method for using the device for an infant article such as a baby bottle that has a recess (area 32) adapted for attachment of an identification tag (34). The tag comprises a side and an

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opposite side for carrying personal information (such as name of the infant) for easy identification.

However, Ricks is silent about an identification device including a retainer coupled to the recess of the member of the identification device enclosing the label in the recess of the member of the identification device.

Levy, Jr. discloses a combination of a product (article) such as a pet collar (belt/strap) and an identification tag device. The Collar includes a buckle (80; a member of the identification device) having a recessed surface (84) adapted for attachment of an identification tag (30) and clear overlay (40; retainer). The identification tag (30) includes two sides (a side and an opposite side). The identification tag further includes identification data such as name or phone number. The data can be handwritten, typed, or pre-imprinted with symbols and indicia. The overlay 40 fabricated of transparent sheet material such as transparent polyester sheet material, having adhesive layer on one of the two sides. The overlay retains the identification tag by completely covering it and protects it from a possible damage such as water damage.

In view of Levy, Jr., it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to further employ a retainer that completely encloses an identification tag with the recessed area (84) in addition to the infant article of Ricks due to the fact that one's personal articles can be easily and quickly identified by the identification data printed on the tag. Furthermore, there is almost no chance of feeding one's baby with a nursing bottle that is not his/or hers due to possible damages on the identification tag. This is significantly important feature for keeping the infant from being exposed to unwanted/unknown germs or viruses that can be potentially a serious risk to the infant's health. Such modification

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of employing a member of identification device with a retainer that completely encloses an identification tag within a recessed area to the infant bottle of Ricks would have been an obvious matter of design variation, well within the ordinary skill in the art, and therefore an obvious expedient.

Re claims 4 and 5, Ricks in view of Levy, Jr. discloses the identification device as recited in rejected claim 22 stated above, wherein the member of the identification device is curved (collar 10) and is coupled to a portion (Fig. 1) of the infant article by tension (by twisting the collar clockwise). It would be also obvious to apply the adhesive identification tag (30) and the adhesive overlay (40) directly to an infant nursing bottle for the purpose of expanding its applicability to any nursing bottle without requiring a particular shape and size of the collar (10).

5. Claims 12, 17, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ricks (US 4,759,139) as modified by Levy, Jr. (US 6,305,329) as applied to claim 22 above, and further in view of Yeager et al. (US 5,969,613).

The teachings of Ricks in view of Levy, Jr. have been fully discussed above.

However, neither Ricks nor Levy, Jr. explicitly discloses the identifier being selected from a group consisting a programmable semi-conductor chip, a digital data recording device, a radio frequency identification device and a barcode.

Yeager et al. disclose an electronic article surveillance security device (10) securable to an article to be protected/identified from possible damages. The device includes a strap that is wrapped around or inserted through the article, and then tightly secured within a housing of the device. The device may include an electronic article surveillance tag (37), or UPC or barcode tag 98 for the purpose of inventory, pricing and security (col. 5, ll. 44-57). A strap with one-way

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locking mechanism is provided to permanently attach the security device onto an article. As appreciated by an artisan in the art, any other jointing means such as a double side tape with required adhesiveness can be used to securely attach the surveillance device to an article. The electronic surveillance tag or barcode tag would substantially improve the processing speed of identifying and locating an article.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to have incorporated an electronic tag or a barcode tag as an identification tag storing data as taught by Yeager et al. into the teachings of Risks in view of Levy, Jr. for the purpose of automating an identification process of an article and saving processing time.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Smith (US 3,818,897) discloses a temper resistive identification device having an elongated flexible band with fastening means for locking to the limb of a patient.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven S. Paik whose telephone number is 571-272-2404. The examiner can normally be reached on Mon - Fri (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Steven S. Paik
Primary Examiner
Art Unit 2876

ssp